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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/799,938
Filing Date: March 11, 2004
Appellant(s): WALKER ET AL.

MAILED

OCT 01 2007

Group 3700

Vincent P. Walker et al.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 7/11/2007 appealing from the Office action mailed 4/13/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2002/0023351	Simms	2-2002
7,200,937	Richard et al.	4-2007
5,249,361	Apprille et al.	10-1993

6,145,201	Andrews	11-2000
2002/0000040	Gilder	1-2002
6,276,061	Rozenkranc	8-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Simms (U.S. Publication No. 2002/0023351).

Simms teaches (see Figures 2-4, 7, and 8) a shaving cartridge with a handle, the shaving cartridge (1) has a plastic housing (4, Paragraph 21, line 5) with front, rear, side portions, a pivot axis (14) where a standard yoke (12) found on many shaving devices attaches the shaving cartridge to the handle, and a housing axis extending perpendicular to the pivot axis. The rear portion has a rear surface (10 and 11). A plurality of shaving blades (5) extend along parallel blade axes that are parallel and behind the pivot axis (14). A guard is located at the front portion and includes an elastomeric member (6) that extends along the housing axis and is located in front of the pivot axis (14). Simms further generally teaches a ratio between the front and rear portions as the front portion appears to be within 45 percent of the length of the rear portion (see Figure 3). Simms also teaches the cartridge being balanced about the pivot axis as any shaving cartridge will balance itself about a pivot axis when placed in a rest position.

Claims 1-8, and 38-45, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simms in view of Richard et al (U.S Patent No. 7,200,937), hereinafter Richard.

Simms teaches all of the elements of the current invention as stated above except for the specific optimal lengths, ranges, or percentages of both the front portion and the portion from the pivot axis to the rear surface. More specifically the front portion being equal to the rear portion or no more than 35 percent less than the rear portion. Simms further fails to teach the shaving cartridge is detachable. Simms further fails to teach the cartridge being removably connected to the handle.

Richard teaches (Col. 4, lines 1-21) that it is old and well known in the art to pivotally balance a shaving cartridge to a neutral position on a handle and make the pivot axis as equidistant as possible between guard and the cap of the shaving cartridge to thereby aid in evenly distributing the shaving forces across each shaving blade.

Richard further teaches (Col. 1, lines 4-11) the cartridge is detachable from the handle.

It would have been obvious to have modified Simms to incorporate the teachings of Richard to construct the shaving cartridge so that the pivot axis was as close to the center of the cartridge as possible and make the cartridge disposable. Making the pivot axis as close to the center of the cartridge as possible would allow forces from shaving to be evenly distributed across all of the blades present, thereby helping prevent the blades from deviating significantly from a position of optimum skin engagement. Making the cartridge detachable would enable a user to easily replace the cartridge without having to replace the entire shaving device thereby saving the user money.

It would have been an obvious matter of design choice to make the front portion a length of about 6 mm and the rear distance a length of about 10 mm, or any other optimal lengths, or percentages, of front distance of the cartridge as compared to the rear distance of the cartridge for the purpose of finding the best front to rear distance ratio to correctly balance the shaving head and help prevent the blades from deviating significantly from a position of optimum skin engagement, because discovering optimal lengths from a pivot axis to balance the shaving head would have been a mere design consideration based on the weight and length of the various materials and objects included in the shaving head. It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges only involves routine skill in the art.

Claims 9, 12-15, 46, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simms, or Simms in view of Richard, in further view of Apprille et al (U.S Patent No. 5,249,361), hereinafter Apprille.

Simms and the modified device of Simms teach all of the elements of the current invention as stated above except the elastomeric member including an elastomeric fin, and where a leading portion of the elastomeric member extends beyond the leading edge of the front portion of the housing in a direction perpendicular the blades axes wherein the leading portion is substantially unsupported and flexible enough to deflect and contour to a user's skin.

Apprille teaches (see Figures 2-4, 6, and 7) an elastomeric guard (10 or 100) on a front portion of a razor housing having fins (22 or 122). The elastomeric guard has a

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leading portion (nearest 18 or 118) that is substantially unsupported along its length. The fins (22 or 122) on the leading portion allow the leading portion to deflect and conform to a contour of a user's skin during shaving (Col. 1, lines 52-59).

It would have been obvious to have modified the device of Simms, or the modified device of Simms, to incorporate the teachings of Aprille to provide a finned elastomeric guard member for the front portion of the shaving cartridge for the purpose of stretching the skin of the user to thereby allow the user to have as close and comfortable as shave as possible.

Claims 10 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simms in view of Aprille, or Simms in view of Richard in further view of Aprille, in further view of Andrews (U.S. Patent No. 6,145,201).

The modified devices of Simms teach all of the elements of the current invention as stated above except the fin length being longer than the blade length and the leading portion being thinner in the center of the housing and thicker at either end.

Andrews teaches (see Figure 2; Col. 10, lines 3-68; Col. 1, lines 38-42; Col. 2, lines 12-52) pads (20 and 22) and guard (28), able to be made out of rubber, which are thicker at the ends of the cartridge and thinner in the center for the purpose of providing the proper curvature for shaving areas such as underarms. Furthermore, Figure 1 shows the guard member (26) surrounding the blade members (24 and 26).

It would have been obvious to have modified the modified devices of Simms to incorporate the teachings of Andrews to modify the thicknesses of the guard members to create the proper curvature s a user can more effectively shave various areas of the

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body such as under his or her arms as well as make the guards longer than the blades to for the purpose of increasing the maneuverability and the overall control of the razor thereby helping to prevent nicks on a users skin caused by the blades.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Simms in view of Apprille, or Simms in view of Richard in further view of Apprille, in further view of Gilder (U.S Publication No. 2002/0000040).

The modified devices of Simms teach all of the elements of the current invention as stated above except the fins being made of a material having a Shore A hardness between about 28 and 60.

Gilder (Paragraph 19) teaches using an elastomeric material with a Shore A hardness between about 28 and 60 to produce a desirable tactile sensation during shaving.

It would have been obvious to have modified the modified devices of Simms to incorporate the teachings of Gilder to make the elastomeric member and fins out of a material with a Shore A hardness between about 28 and 60 so the guard member will produce a desirable tactile sensation during use.

Claims 17, 18, 48 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Simms, or Simms in view of Richard, in further view of Rozenkranc (U.S Patent No. 6,276,061).

Simms and the modified device of Simms teach all of the elements of the current invention as stated above except for the shaving assembly further comprising a trimming assembly with a trimming blade.

Rozenkranc teaches (see Figure 1) teaches a shaving assembly with a trimming assembly and a trimming blade (4).

It would have been obvious to have modified Simms, or the modified device of Simms, to incorporate the teachings of Rozenkranc to provide a trimming assembly in the shaving head. The trimming assembly would allow a user to properly trim sideburns and similar positions and therefore produce a better quality shave.

(10) Response to Argument

Regarding Appellant's arguments to the rejection of claims 1 and 38 based solely on the reference of Simms. Figures 2 and 3 clearly show the location of the pivot axis (14) with respect to the shaving cartridge. Examiner contends that the drawings generally teach the length of the portion of the cartridge in front of the pivot axis being nor more than 45 percent less than length of the portion of the cartridge behind pivot axis. Figure 8, which the Appellant references, is a second embodiment of the invention than Figures 2 or 3.

Regarding Examiner's assertion that the shaving cartridge is balanced about the pivot axis it is inherent in any pivotable structure will balance itself out with respect to the pivot axis by finding a rest position. Furthermore, on page 17, lines 5-12, Appellant clearly discloses that the shaving cartridge is biased into position by a biasing element (134). How can the shaving cartridge be balanced at any position if it is spring biased into a specific position?

Regarding Appellant's argument that the 102(b) rejection of Simms be withdrawn, Examiner contends that Simms generally teaches the ratio of front distance

to rear distance in relation to the pivot axis. The 103(a) rejection of Simms in view of Richard is used to provide a more concrete rejection that is based on information besides what is found in the drawings and is in no way provided because Simms does not teach what is disclosed in claims 1 and 38.

Regarding Appellant's argument on the placement of the discharge port of Simms with respect to the pivot axis of the shaving cartridge if Richard modifies Simms. Richard teaches that it is known to place the pivot axis equidistant between the guard and the cap (front and back) of the shaving cartridge (Col. 4, lines 1-21 of Richard). With this knowledge, along with the knowledge that the lubricating device of Simms works better when the discharge port for the lubricating device is located near the pivot axis of the shaving cartridge and located below a guard element found in front of the blades of the blade cartridge (Paragraph 27 of Simms). One of ordinary skill in the art would have found it obvious to extend the length of the guard on the razor cartridge to provide a location for the pivot axis and discharge port that allowed the shaving cartridge to be balanced while also allowing the lubricating device to work as efficiently as possible. Furthermore, if the lubrication device, and therefore the discharge port, were eliminated to allow the pivot axis to be moved to the center of the shaving cartridge to properly balance the cartridge doing so would have been an obvious expedient since the other elements and their functions would have performed the same function as before.

Regarding Appellant's arguments (Page 9) to the obvious matter of design choice rejection (Page 4) regarding of the specific lengths, ranges, or ratios of the front

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portion of the shaving cartridge with respect to the rear portion. Richard already teaches that it is old and well known to balance a shaving cartridge by moving the pivot axis of the shaving cartridge to better distribute the shaving forces across each shaving blade. Therefore, discovering the optimal or workable ranges of the front portion of the shaving head with respect to the rear portion of the shaving head to effectively balance the shaving cartridge would only involve routine skill in the art as the range for sizes of the front portion and rear portion of the shaving cartridge would depend more on the materials the various parts of the shaving cartridges are made with, how much of each of these materials were used to make the shaving cartridge, and where these materials were distributed over the shaving cartridge. A see saw is a perfect example of this, as a seesaw will not balance if two unequal weights are placed on opposite sides of each other. Balancing the seesaw then requires the pivot point to be moved until the torque on each side of the pivot point is equal.

Regarding Appellant's argument in making the shaving cartridge of Simms disposable. The discharge port (45) of the lubrication device is not attached to the razor cartridge but instead is the exit point for the delivery tube (44) that is attached to the handle. Paragraph 27 of Simms clearly states that no portion of the delivery tube is mechanically attached to the handle. Therefore making the shaving cartridge replaceable would not in any way effect the discharge port (45). Furthermore as mentioned above removing the lubrication device would be an obvious expedient in order to make the shaving cartridge disposable since all of the other elements of the shaver would function the same as before.

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(11) Related Proceeding(s) Appendix

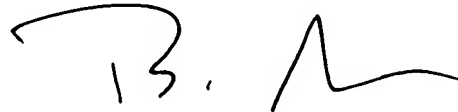
No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Edward F. Landrum

9/20/2007



BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER

Conferees:

Boyer D. Ashley SPE 3700



Derris H. Banks SPE 3700



Fish & Richardson P.C.

60 South Sixth Street

Suite 300

Minneapolis, MN 55402